

Alpine Amador Butte Calaveras Colusa  
Del Norte El Dorado Glenn Imperial  
Inyo Lake Lassen Madera Mariposa



Merced Modoc Mono Napa Nevada Placer  
Plumas San Benito Shasta Sierra Siskiyou  
Sutter Tehama Trinity Tuolumne Yuba

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June 30, 2011

Delta Stewardship Council  
980 9<sup>th</sup> Street, Suite 1500  
Sacramento, CA 95814

Submitted via E-Mail: [deltaplancomment@deltacouncil.ca.gov](mailto:deltaplancomment@deltacouncil.ca.gov)

Re: Fourth Staff Draft Delta Plan (dated June 13, 2011)

Dear Chairman Isenberg and Members of the Council:

On behalf of the thirty member counties of the Regional Council of Rural Counties (RCRC), I welcome the opportunity to submit comments on the Fourth Staff Draft of the Delta Plan (Delta Plan). As you know, RCRC has submitted comments on each of the three previous staff drafts of the Delta Plan separately, as well as joining as a signatory on two coalition letters.

In a letter dated June 13, 2011, RCRC urged the Delta Stewardship Council (Council) to include for consideration and further analysis in the Delta Plan Environmental Impact Report (EIR) the Alternate Delta Plan submitted to the Council by the Ag-Urban Coalition (Coalition). RCRC appreciates the action taken by the Council at its June 16 meeting to include the Ag-Urban Alternate Delta Plan (Alternate Delta Plan) in the EIR as one of the seven alternatives to be considered.

On the topic of the EIR, RCRC urges the Council to ensure that the analysis include all the environmental consequences of each alternative, including the indirect consequences. RCRC has submitted numerous comments on this topic beginning during the Delta Vision process. In brief, programs or facilities implemented or constructed in the Delta must not result in the redirection of unmitigated significant impacts to upstream beneficial uses in the areas/counties/watershed of origin.

The Fourth Staff Draft of the Delta Plan is an improvement over the previous documents, and RCRC commends the Council and staff for the positive changes made. However, RCRC continues to have serious fundamental problems with the draft Delta Plan.

RCRC has chosen, for the most part, not to repeat comments submitted to the Council previously on drafts one through three.

### Executive Summary

RCRC will not comment on the content of the Executive Summary at this time, as we anticipate that it will be revised in the next draft of the Delta Plan.

### Chapter 1 - The Delta Plan

The geographic scope of the Delta Plan continues to be of concern to RCRC. Please see the RCRC comments previously submitted.

Chapter 1 contains an overview of the chapters that follow and make up the Delta Plan. Missing is the detail to be included in the “Phasing of the Delta Plan” box. Perhaps this lack of detail is one reason why the Delta Plan still does not seem to contain a “plan”.

In contrast, the Alternative Delta Plan lays out near-term, medium-term and long-term actions to be taken in an orderly progression. These actions include coordination among agencies, the identification of opportunities to integrate programs, and the development through a cooperative public process of a set of metrics for measuring success in terms of achieving the coequal goals.

While RCRC appreciates that the Delta Plan has replaced many of its former “regulatory” actions with “recommendations”, the Delta Plan still seeks to exert Council regulatory authority in certain instances. RCRC urges the Council to consider the means by which the Alternate Delta Plan proposes to further the coequal goals in a manner that is enforceable without being regulatory.

### Chapter 2 – Science and Adaptive Management for a Changing Delta

The Delta Plan goes into considerable detail regarding the nine-step adaptive management framework, best available science, the need for a science plan for the Delta, etc. After reading the text of this chapter it is clear what is envisioned will be an extremely expensive long-term undertaking. RCRC strongly supports good science. However, the Council must recognize that funding may well be limited and RCRC believes that more focus is needed. With that in mind, RCRC favors the approach taken in the Alternative Delta Plan – to focus the research program to start on the life cycle models for each species of concern.

### Chapter 3 – Governance: Implementation of the Delta Plan

Despite what appears to be an effort to streamline the regulatory process for covered actions, RCRC agrees with the Delta Counties that the process continues to remain burdensome and will be costly. Please see RCRC’s previous comments on this topic.

RCRC appreciates that the Delta Plan now contains more specificity as to the types of projects that are not covered actions. However, more needs to be done to provide clarity on this important issue. For example, the Delta Plan now states that ministerial actions are exempt from the certification process only if there is a prior certification already filed for the ordinance on which the ministerial certification is based. RCRC believes that it is unreasonable to require the Delta Counties to obtain consistency certifications in advance for each ordinance on which they could in the future base a

ministerial action. Please see RCRC's previous comments as to how this issue could be resolved.

RCRC also appreciates that the Delta Plan also now contains recognition that full consistency with all relevant policies may not be "feasible" (per the discussion at the recent Council meeting).

As the Alternate Delta Plan notes, the Delta Reform Act specifically states in Water Code Section 85225.23 that consistency appeals will be determined under the "substantial evidence" standard. Under the near-term actions the Alternate Delta Plan calls for the amendment of existing administrative procedures governing appeals to be consistent with Water Code Section 85225 et seq. and the substantial evidence standard. RCRC urges the Council to take action relative to this important issue.

As it relates to the directive in the Delta Reform Act relating to the Coastal Zone Management Act and federal involvement in the Delta, RCRC agrees with the approach proposed in the Alternate Delta Plan which would have the Council approach the key federal agencies and work to develop a Memorandum of Agreement (MOA) to promote cooperation, collaboration, and coordination in implementation of the Delta Plan.

#### Chapter 4 – A More Reliable Water Supply for California

RCRC is appreciative that the Delta Plan now includes the language of Water Code Sections 85031 and 85032 which states that existing water rights, procedures or laws are not affected by the Delta Reform Act.

The Delta Plan proposes that certain covered actions (export of water from the Delta, transfer of water through the Delta, and use of water in the Delta) may be determined to be inconsistent with the Delta Plan if specified policies are not complied with. These policies include: the expansion of or the addition of a new Water Reliability Element in the Urban or Agricultural Water Management Plan that includes among other things an evaluation of regional water balance; and, the development and implementation of a conservation-oriented rate structure. Please see RCRC's previous comments on this topic.

The Alternate Delta Plan, in contrast, proposes a more collaborative approach which includes: the identification of programs to promote additional water conservation and water use efficiency projects that are not locally cost effective without additional incentives; and the identification and implementation of measures that reduce impediments and facilitate implementation of water transfers that promote water supply reliability (within existing law).

As it relates to groundwater, RCRC agrees with the Delta Plan and Alternate Delta Plan recommendation that Bulletin 118 should be updated using field data, CASGEM data, groundwater agency reports, satellite imagery, and other best available science.

Both the Delta Plan and the Alternate Delta Plan encourage the development of sustainable groundwater management plans. However, only the Alternate Delta Plan specifies specific and concrete near-term, mid-term and long-term actions. Near-term actions include recommending that the State Water Resources Control Board (SWRCB) or Legislature (if necessary) designate the use of surface water for groundwater recharge as a “beneficial use” and that the SWRCB consider setting uniform guidance for regional water quality control boards relating to Aquifer Storage and Recovery programs and injection of water into groundwater basins serving potable use. Additionally, in the area of groundwater storage, the Alternate Delta Plan recommends in the near-term, among other things, and convening of an inter-agency group to catalog and resolve issues limiting increased groundwater storage.

#### Chapter 5 – Restore the Delta Ecosystem

The Delta Plan places an emphasis on creating a more natural flow regime, and continues to propose, as a policy, that the Council consider and amend the Delta Plan to achieve progress on the coequal goals in place of undated flow objectives if the State Water Board does not meet a June 30, 2013 deadline. Please see RCRC’s previous comments on this subject.

The Delta Plan contains an example of an action the Council could take if this deadline is not met i.e., to recommend that the State Water Board cease issuing water rights permits in the Delta and the Delta watershed. While this action is now presented as a “recommendation”, RCRC believes its inclusion diminishes the credibility of the Delta Plan.

Water supply reliability and regional self-sufficiency in the Delta and areas upstream of the Delta will by necessity involve the State Water Board and the amendment of and/or issuance of new permits. Additionally, as the Council knows, the Delta Reform Act includes language relating to water rights and area of origin water rights. Please refer to page 53 of the Delta Plan.

RCRC urges the Council to consider including in the Delta Plan a greater emphasis on other actions that can be taken, examples of which can be found in the Alternative Delta Plan.

#### Chapter 6 – Improve Water Quality to Protect Human Health and the Environment

Please see RCRC’s previous comments on Chapter 6.

#### Chapter 7 – Reduce Risk to People, Property, and State Interests in the Delta

RCRC defers to the comments submitted by the Delta Counties on Chapter 7.

RCRC notes, however, that federal flood insurance is not always available and questions the validity of the Council’s recommendation that the Legislature should require an adequate level of flood insurance for individuals, businesses, and industries in flood prone areas.

Chapter 8 – Protect and Enhance the Unique Cultural, Recreational, Natural Resources, and Agricultural Values of the California Delta as an Evolving Place

RCRC defers to the comments submitted by Delta Counties on Chapter 8.

Chapter 9 – Finance Plan Framework to Support Coequal Goals

The operating costs of the Council, the Independent Science Board (ISB), the Delta Conservancy (Conservancy) and the Delta Protection Commission are estimated to be approximately \$50 million annually. RCRC would be interested to see how these cost estimates were developed.

Please see RCRC's previous comments on the Finance Plan Framework, including the recommendation that the Legislature authorize the Delta Stewardship Council to develop fees to support the operations of the Council, ISB, and Conservancy and the public goods charge.

In conclusion, RCRC appreciates the opportunity to provide the Council with comments on the fourth draft of the Delta Plan. Please contact me at (916) 447-4806 or [kmannion@rcrcnet.org](mailto:kmannion@rcrcnet.org) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Kathy Mannion". The signature is fluid and cursive, with the first name "Kathy" and last name "Mannion" clearly distinguishable.

Kathy Mannion  
Legislative Advocate

cc: Joseph Grindstaff, Executive Officer